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## CHAPTER EIGHT

# PUBLIC INVOLVEMENT PROCEDURES

### 8-1.0 INTRODUCTION

The Indiana Department of Transportation (INDOT) has established a proactive public involvement process that provides complete information, timely public notice, full public access to key decisions and supports early and continuing involvement of the public in developing plans and transportation improvement programs.

The goal is to develop a continuous public involvement process which is accessible to the public and identifies and addresses critical environmental issues early in the project development process. It also minimizes duplication of public involvement efforts and meets the needs of the public and resource/regulatory agencies to provide early and continuing input into the project development process. The following are elements of the public involvement process which INDOT utilizes to accomplish this goal:

1. MPO Procedures. Each Metropolitan Planning Organization (MPO) develops a public involvement process to solicit public comments on a comprehensive transportation plan and transportation projects within the MPO area. MPOs will include a discussion of the disposition of comments in their Transportation Plans and Transportation Improvement Programs (TIPs).
2. INDOT's Regional Process. INDOT's district field offices will host annual meetings to seek public comment on the Statewide Transportation Plan and transportation projects programmed in the Indiana Statewide Transportation Improvement Program (INSTIP). These meetings will focus on the planning issues and projects outside the MPO areas while recognizing the leadership role of the MPOs in conducting comprehensive transportation planning in the State's urbanized areas. INDOT's district field offices will conduct transportation planning/public involvement meetings to include clusters of communities within that region. These meetings will be held periodically to focus on local area goals and objectives.
3. Stakeholder Involvement. INDOT will involve stakeholders in the development of policies and strategies for the Statewide Transportation Plan as outlined below.
4. Statewide Transportation Forum. INDOT will conduct regular meetings to seek public comments on the Statewide Transportation Plan from public agencies, Statewide interest groups, stakeholders in the transportation system and others who are not able to attend the

individual MPO and district meetings. INDOT will invite the appropriate MPO to participate and provide a comprehensive overview of the metropolitan transportation plans. The Statewide Transportation Plan and INSTIP will include a discussion of the disposition of comments from the above meetings.

5. Public Hearings. Once a project-specific environmental document required under the National Environmental Policy Act (NEPA) is approved for circulation, INDOT will offer a formal public hearing, as described in Section 8-8.0, to seek additional public comment. INDOT will include a disposition of these comments in the final approved NEPA document.
6. Design Summary. INDOT develops the design summary to serve as a “public information document,” which includes permits, mitigation, design features, right-of-way features, etc., which are decided during final design.

## **8-2.0 BACKGROUND**

The Statewide Planning and Metropolitan Planning Regulations (23 CFR Part 450 and 49 CFR Part 613, October 28, 1993) require that INDOT and the MPOs develop public involvement procedures. These regulations also require that a Major Investment Study (MIS) be accomplished to involve agencies and the public in efforts to define the design concept and scope of major transportation investments.

The regulations involving Air Quality Conformity (40 CFR Part 51, November 24, 1993) and the Management and Monitoring systems (23 CFR Part 500, December 1, 1993) indicate that the planning public involvement process will serve as the vehicle for public input to air quality conformity determinations and the results of the management systems.

These procedures also meet the following public involvement requirements:

1. 23 USC 128;
2. Executive Orders 12898, 11988 and 11990;
3. 36 CFR 800;
4. 49 CFR 622;
5. 33 CFR 115.60; and
6. 33 CFR 325 and 327.

These procedures are consistent with the Council on Environmental Quality’s (CEQ) regulations for implementing the National Environmental Policy Act (NEPA) (40 CFR, Parts 1500-1508) and the Federal Highway Administration (FHWA) internal operating procedures required by NEPA (23 CFR 771, “Environmental Impact and Related Procedures”).

### **8-3.0 MPO PROCEDURES**

The Indiana Department of Transportation recognizes the important role that the MPOs play in transportation network planning for the urbanized areas of Indiana. INDOT participates in the cooperative transportation planning process within the MPO's jurisdiction. An effective metropolitan plan must incorporate transportation under both local and State jurisdiction. Therefore, INDOT will rely on MPOs to include public involvement in the development of their comprehensive Transportation Plans and Transportation Improvement Programs.

Procedures have been developed by each MPO to provide opportunity for the public to provide input on the MPO Transportation Plan (20-year planning horizon), MPO Transportation Improvement Program (TIP) and Major Investment Studies (MIS), where applicable. INDOT utilizes the MPO public involvement process as the vehicle for soliciting public comment for INDOT projects within the MPO area. INDOT acknowledges the unique nature of each metropolitan area and has determined that the MPO procedures and the Statewide transportation forum meet the planning public involvement requirements of 23 CFR 450.316(b) for transportation projects within the MPO areas.

The MPO procedures include mechanisms for the public to express its views and to obtain information. The MPO procedures also provide a general approach for involving the public in Major Investment Studies. Within this framework, the MIS will include the development of public involvement strategies.

The MPO procedures will also detail how the transportation needs of persons and groups who are "traditionally underserved by existing transportation systems" are identified and addressed per Executive Order 12898 (12/11/94), Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations. For example, some MPOs may institute advisory committees to represent transportation-disadvantaged groups and communities such as transit patrons, elderly, handicapped, low income and minorities.

When substantial written and oral comments are received on the draft Transportation Plan or TIP as a result of the public involvement process or the interagency consultation process required by the conformity regulations, a summary, analysis and report on the disposition of comments shall be made part of the draft Transportation Plan and TIP. INDOT and the MPO will respond to comments and questions and include the responses in the final Transportation Plan and TIP.

INDOT and MPOs will coordinate the MPO plans and Statewide Transportation Plan through the cooperative transportation planning process that INDOT and the MPO's conduct. INDOT's participation in the MPO planning process ensures that Statewide issues are considered in the MPO planning process. INDOT will summarize and include the individual MPO transportation plans in the Statewide Transportation Plan.

#### **8-4.0 INDOT REGIONAL PROCESS**

INDOT recognizes that the district field offices serve a critical role in identifying transportation needs within their respective areas. Local public officials and the public at-large will identify transportation needs through both formal requests for projects and informal telephone requests for maintenance. The results of the management systems are also considered in identifying metropolitan and Statewide transportation needs.

INDOT's district development staff will participate in the MPO public involvement process to cooperatively identify INDOT transportation projects within the MPO areas for inclusion in the metropolitan Transportation Plan and TIP. Districts should continue to utilize the various public involvement mechanisms unique to their district to identify transportation needs.

To invite broader participation in the identification of transportation needs focusing on those areas outside the MPO planning areas, each INDOT district will conduct a transportation planning and public involvement process to identify transportation needs.

The district, in cooperation with the Environment, Planning and Engineering Division, conducts transportation planning meetings to include clusters of communities within that region and provide the opportunity for public involvement. These meetings will be conducted periodically within the district to better respond to local transportation needs and address community goals and objectives.

Each INDOT district will conduct an annual public meeting to coordinate input from the community-cluster planning activities and solicit overall public involvement in the identification of transportation needs for both the Statewide Transportation Plan and the INSTIP. The meeting may be held outside the MPO areas to focus on district-wide transportation needs. The district will present the draft prioritized list of transportation projects which will update the previous year's INSTIP and record written and oral comments on the proposed update. The Statewide Transportation Plan will also be available for comment.

INDOT will provide notice in the local news media before the public meeting. Districts should utilize other communication techniques to encourage broad public participation (e.g., transportation fairs, telephone hot-lines, focus groups, surveys). The notice should include the meeting date, location and information available for public review and comment. The district will provide reasonable public access to technical and policy information used in the development of the Statewide Transportation Plan and INSTIP.

A comprehensive mailing list to notify the public and transportation stakeholders of planning and programming meetings will be maintained by the Central Office and the districts for district meetings (see Section 8-6.0).

The district will consider and respond to all issues identified through written and oral comments. This summary, analysis and report on the disposition of comments shall be made part of the final submittal to the Central Office listing the district's proposed projects for inclusion in the INSTIP.

Information on other public involvement methods is also available. Methods include direct participatory techniques such as workshops, on-site tours, brainstorming sessions, task forces or advisory committees, agency hot-lines, surveys and project-site information centers. Indirect participatory techniques might include newsletters, pamphlets, brochures, posters, information kits and current mailing lists. The mass media may be used to inform the public.

The Environment, Planning and Engineering Division's Hearings Section is available to assist districts by providing guidance on innovative public involvement techniques and meeting formats that maximize meaningful public input. The Hearings Section will also identify successful techniques being utilized by the districts and communicate those techniques to other districts.

#### **8-5.0 STAKEHOLDER INVOLVEMENT**

INDOT will seek to involve transportation stakeholders in the development of policies and strategies for the Statewide Transportation Plan. Such efforts will focus on specific transportation issues and will strive to include various interested parties including intermodal transportation representatives, environmental organizations, academic advisors, economic development interests and representatives of other State agencies. INDOT may form advisory committees as appropriate.

#### **8-6.0 STATEWIDE TRANSPORTATION FORUM**

The Hearings Section will maintain a list of stakeholders in the transportation system including public agencies, representatives of transportation agency employees, private providers of transportation, organizations representing the traditionally underserved and other interested parties and segments of the community affected by transportation plans, programs and projects. The Hearings Section will annually distribute a notice listing the various INDOT and MPO public involvement opportunities. The notice will include all available meeting dates and locations and addresses for submittal of written comments. The Hearings Section will also provide reasonable public access to the technical and policy information used in the development of the plan, INSTIP, draft MPO and district materials.

INDOT and the MPOs will conduct regular meetings to seek involvement by the stakeholders in the transportation system, public agencies, Statewide interest groups and others who were not able to attend the individual MPO and district meetings. INDOT will make a presentation outlining the transportation planning process and the major initiatives evolving from the planning process. The

presentation may also briefly outline the air quality conformity process and how the results of the management systems are considered in developing metropolitan and Statewide transportation plans and improvement programs.

The meeting format will allow full participation by the general public and stakeholders in the State's transportation system. Three ways to comment are as follows:

1. public statements before an audience of concerned citizens;
2. verbal comments to a court recorder which can be transcribed verbatim; and
3. comments submitted in writing at the meeting, by mail or via the Internet.

The format will consist of INDOT, in cooperation with the Indiana MPOs, presenting the Statewide plan, if applicable. In a nearby room, handouts and displays will explain the Statewide and local transportation plans. A public statement session will be held at an appropriate time during the meeting. All groups and individuals wishing to make public statements will have an opportunity to speak.

Written and oral comments will be collected at the Statewide Transportation Forum. A discussion of the disposition of comments from the district process, Statewide Transportation Forum and those received by mail will be included each year in the final INSTIP and the Statewide Transportation Plan, if applicable.

Copies of the final INSTIP and Statewide Transportation Plan, where applicable, will be distributed to the districts and MPOs. The respective districts and MPOs will publish the availability of the INSTIP (and Transportation Plan where applicable) and provide copies for review in convenient locations. INDOT will provide copies of the INSTIP (and Transportation Plan where applicable) to public agencies and interested groups.

## **8-7.0 AMENDMENTS TO THE TIPS AND INSTIP**

Public involvement for amendments involving significant projects to the INSTIP or a TIP will be facilitated by the MPO or district in which the amendment occurs. A notice will be published by the MPO in local news media informing the public of proposed changes within urbanized areas. A notice will be published by the district in local news media for informing the public of proposed significant changes outside urbanized areas.

A comment period should be established allowing time for interested parties to comment on the proposed amendments. A discussion of the disposition of comments will be included with the transmittal of the amendment to the FHWA/Federal Transit Administration (FTA) requesting approval.

Examples of revisions which are not sufficiently significant to require additional opportunity for public comment include minor changes in project scope/cost and moving minor or noncontroversial projects among the first three years of the INSTIP/TIP.

## **8-8.0 PUBLIC INVOLVEMENT DURING PROJECT DEVELOPMENT**

### **8-8.01 Early and Continuing Opportunities for Public Involvement**

Each transportation project will have a program of early and continuing public involvement coordinated with the stages of the NEPA process and building on public involvement conducted as part of INDOT's or the MPO's transportation planning and programming process. Early and continuing public involvement may be conducted through many different public involvement techniques, and public meetings are only one element of a well-rounded involvement program. Transportation projects vary in scope, complexity and level of public interest in a given project. Some projects will require a public hearing or an opportunity for a public hearing, as described in Section 8-8.02. For complex projects, additional involvement activities before the public hearing are appropriate. For simple projects with low levels of public interest, public notice through the transportation programming process may suffice.

The Hearings Section in cooperation with the Environment, Planning and Engineering Division, conducts public information meetings on an "as-needed" basis to seek public input to assist in defining the scope of a proposed project. INDOT normally conducts these public informational meetings before they prepare the environmental document.

The Hearings Section provides guidance on innovative public involvement techniques and meeting formats to maximize meaningful public input on such topics as gathering information on social impacts or locally known environmental resources (e.g., unmarked graves, long-abandoned underground storage tanks).

Although separate location and design public hearings are no longer required and all references to design approval have been deleted from the regulations, there are instances where additional meetings might be desirable. In cases where there are several practical location alternatives, preliminary public informational meetings might be appropriate.

Once additional design detail is available, an informational meeting may be held to acquaint the public with specific design considerations for the project. This enables involved property owners to learn how the proposed project may affect abutting property.

The MPO public involvement procedures establish the general approach for involving the public in Major Investment Studies (MIS).



### **8-8.02 Public Hearing Requirements**

The INDOT and MPO procedures for seeking and addressing public comments in the development of transportation plans and improvement programs will provide early and continuing opportunities for public involvement. The public hearing is an opportunity for the public to make formal statements of position immediately before project decision-making and preparation of the final environmental document. INDOT views the hearing as a specific, observable, administrative benchmark for public involvement. Public meetings, as needed during the development of the NEPA document, provide additional opportunities for early and continuing public involvement.

The Hearings Section will conduct one or more public hearings or provide the opportunity for a public hearing(s) at a convenient time and place for any Federal-aid project on an Interstate, U.S., or State route when a project meets one of the criteria as follows:

1. The Proposal requires over 0.2 ha of permanent right-of-way.
2. The Proposal substantially changes the layout or function of connecting roadways or of the facility being improved.
3. The Proposal may have substantial adverse impact on abutting property.
4. The Proposal may have a significant social, economic, environmental or other effect.
5. The Proposal is determined by FHWA, in consultation with INDOT, to warrant a public hearing in the public's interest.
6. The Proposal involves impacts to resources in or eligible for inclusion in the National Register of Historic Places, wetland impacts, and/or significant floodplain encroachments.

Under the supervision of the Hearings Section, public hearings will be conducted on local projects by the local authority or its agent(s) when a project meets one or more of these criteria.

Public hearings will be held for all transportation projects which involve the development of an Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA). The disposition of both oral and written comments will be included in the final approved NEPA document which constitutes FHWA location approval.

Transportation projects that do not individually or cumulatively have a significant environmental effect are categorically excluded from the requirement to prepare a NEPA document (EIS or EA). The public involvement requirements for these Categorical Exclusion (CE) projects can be satisfied either by holding a public hearing or by INDOT publishing notices offering the opportunity for a

public hearing. Based on the re-evaluation of project environmental documents required by 23 CFR 771.129, FHWA, in cooperation with INDOT, will determine whether changes in the project or new information warrant additional public involvement.

INDOT will publish notices in local media. For local projects, local authorities will publish these notices in accordance with I.C. 5-3-1-4. The procedure for requesting a public hearing shall be explained in the notice. In addition, the notice shall announce the availability of the appropriate environmental document and shall explain where appropriate project materials may be reviewed. Further, the notice shall advise of significant floodplain encroachments and whether a practicable alternative exists for the use of impacted wetland and historic resources. The deadline for submission of a request for a public hearing shall be clearly stated. If no response is received on the notice by the stated deadline, the Hearings Section will certify that the public involvement requirements have been satisfied and document the files accordingly. INDOT shall forward a copy of each certification to FHWA for information.

When a limited number of requests are received in response to a notice offering the opportunity for a public hearing, appropriate INDOT representatives may meet with those individuals who responded to determine their involvement and concerns. The Hearings Section will certify that the public involvement requirements have been satisfied and will note the certification in the project files.

Residents may request a public hearing be held when a substantial and significant social, economic or environmental interest in the matter is perceived. If a resident identifies no significant interest and INDOT determines that it is not in the public interest to hold such a meeting, the Hearings Section will prepare a report to serve as documentation for the certification that the public involvement requirements have been satisfied.

### **8-8.03 Hardship and Protective Right-of-Way Buying**

Federal regulation 23 CFR 771.117(d)(12) provide for the acquisition of land for hardship or protective purposes for a particular parcel or a limited number of parcels. Where the imminent development of land would preclude further transportation use, protective acquisition is allowed. Advance acquisition is allowed only where the acquisition will not limit the evaluation of alternatives which may be required in the NEPA process. The Hearings Section will assure that all property owners are contacted, made aware of INDOT's reasons for early acquisition of their property, and informed of the availability of the environmental document (Categorical Exclusion) concerning the proposed right-of-way acquisition. Property acquisition may proceed once the Hearings Section certifies the contacts have been completed thereby satisfying the public involvement requirement.

When the governor, or other appropriate officials, declares an emergency and INDOT deems it to be in the overall public interest on a specific project, INDOT can recommend to FHWA that alternative

procedures for public involvement be followed or that certain requirements be waived. Written concurrence must be obtained from FHWA for such alternative procedures or waiver of certain steps.

#### **8-8.04 Public Notices**

Once the documentation for a categorical exclusion (where applicable) has been approved by INDOT or FHWA has approved an EA for circulation, INDOT will publish a Public Notice of Planned Improvement in accordance with I.C. 5-3-4-1, offering the opportunity for interested individuals to request a hearing. Should a hearing result or the documentation for a draft EIS (DEIS) is approved for circulation, INDOT will publish a Notice of Public Hearing in accordance with I.C. 5-3-4-1. INDOT will also achieve public involvement goals in the appropriate minority and foreign language communities where projects are proposed in accordance with the 1964 Civil Rights Act and the Civil Rights Restoration Act of 1987 by publishing legal notices in the appropriate community media and language.

INDOT will publish this notice at least 15 days in advance of the public hearing for all environmental documents. The Federal Register DEIS notice of availability shall establish a period of not less than 45 days to return comments on the DEIS. Regulations require that interested parties submit EA comments within 30 days of the notice of the availability of the EA. FHWA recommends that two notices be made for EIS projects - an initial, minimum 15-day notice with a second notice 5-12 days in advance of the hearing.

In addition to formal notices of the hearing, copies of the notice or a press release may be distributed to appropriate news media and local, State and Federal governmental agencies that are affected or involved in the project or program. Copies will also be mailed to any agency, local public official, public advisory group or individuals who have requested notice of hearings and to other groups or agencies who are included in the current INDOT mailing list.

Each notice of a public hearing shall specify the date, time and place of the hearing or meeting and shall contain a general description of the proposal. The notice shall specify that location maps and other pertinent information, including the appropriate environmental document developed for the proposal, will be available for public review. The notice shall also provide information required to comply with public involvement requirements of other laws, Executive Orders and regulations:

1. Per the Clean Water Act, the notice will indicate the availability, where applicable, of the Section 404 Permit Application and reference the US Army Corps of Engineers Public Notice seeking comments on the application.
2. Where historic properties are involved (i.e., buildings, structures and sites including archeological sites or objects that are listed in or eligible for listing in the National Register

of Historic Places), the notice will indicate as follows: *Per the National Historic Preservation Act, the views of the public are being sought regarding the effect of the proposed project on [list specified properties involved].*

3. Per Executive Order 11990, Protection of Wetlands, and Executive Order 11998, Floodplain Management, the notice shall seek public comment on wetland impacts and floodplain encroachments where applicable.

INDOT maintains a current mailing list upon which any Federal or State agency, local public official, public advisory group or any other interested committee or persons may enroll to request all legal notices issued by the Hearings Section. Any agency, official, group or citizen desiring to receive such notices must submit a written request to the following:

INDOT Environment, Planning and Engineering Division  
Hearings Section  
Room N848  
Indiana Government Center North  
100 North Senate Avenue  
Indianapolis, Indiana 46204-2249

#### **8-8.05 Conducting the Hearing**

The Hearings Section will hold public hearings at a place and time generally convenient for persons affected by or interested in the proposed undertaking and in a facility that is accessible to the handicapped. The Hearings Section will also be responsible for assuring all public involvement requirements listed below are satisfied. The identical procedures will be observed by local entities or its agent(s) when conducting public involvement procedures for local projects.

Representatives of INDOT, the MPO, and the local authority or its agent(s), when appropriate, will explain the information as follows:

1. the project's purpose, need and consistency with the goals and objectives of any local urban planning;
2. the project's alternatives and major design features;
3. the social, economic, environmental and other impacts of the project;
4. the relocation assistance program and the right-of-way acquisition process; and
5. INDOT's procedures for receiving both oral and written statements from the public.

INDOT will ensure that engineers, planners or other qualified personnel are present to explain the proposal and answer questions which may arise.

At the public hearing it shall be announced, or otherwise explained, that at any time after the hearing and before final approval is obtained, information developed relating to the proposed undertaking will be available upon request during normal working hours for public inspection and copying. If the proposal requires the acquisition of property, INDOT's right-of-way procedures, including the relocation assistance program (when applicable), will be explained. The availability of the appropriate environmental document will be announced at the public hearing.

INDOT is committed to providing a public hearing format that allows full participation by the public. This format will allow the public to comment on the project in a minimum of three methods as follows:

1. public statements before an audience of concerned citizens,
2. verbal comments to a tape recorder which can be transcribed verbatim, and/or
3. written comments will be accepted provided in person, by mail or via the Internet.

#### **8-8.06 Section 106, Consultation Under the Historic Preservation Act**

Once the views of interested persons have been considered and documented, the "finding of no adverse effect" or the Memorandum of Agreement can be forwarded to FHWA for approval. The INDOT transmittal letter shall document the means employed to solicit public comment, summarize the views of interested persons, and discuss the resolution of any outstanding issues. Once the Section 106 process is completed, FHWA could process the 4(f) Programmatic where applicable and conclude the NEPA approval process.

#### **8-8.07 Public Hearing Transcript**

A transcript of the verbal and written statements from the public involvement phase shall be made. The future availability of the transcript shall be announced at the public hearing or by news release subsequent to its completion and distribution. In addition, copies will be provided to individuals who request such copies as provided for in the current INDOT policy concerning public disclosure. INDOT shall submit to FHWA a copy of each public hearing transcript and a certification that a required hearing or hearing opportunity was offered. The transcript will be accompanied by copies of all written statements from the public, both submitted at the public hearing and during an announced period after the hearing.

With respect to resolution of hearing comments, it is not considered responsive to reply with statements such as, “It is not part of the scope,” or, “It will be looked into.” An explanation must be given.

Explicit consideration and response to both oral and written comments will be included in the Final Environmental Impact Statement (FEIS). If no significant impacts are identified, INDOT shall furnish FHWA a copy of the revised EA as appropriate; the public hearing transcript, where applicable; copies of any comments received and responses thereto; and recommend a Finding-Of-No-Significant-Impact (FONSI). If a project is located in an MPO area, the MPO will be given the opportunity to review and make additions to responses. The MPO will provide expertise and assistance in addressing metropolitan planning and community development issues; therefore, the public hearing responses will constitute joint INDOT-MPO comments. Once the FHWA has granted final location approval by issuing the FEIS, Record of Decision or FONSI, the project may be advanced to final design, right-of-way acquisition and construction.

#### **8-9.0 DESIGN SUMMARY**

A Design Summary is prepared for all projects where a public hearing or the opportunity for a public hearing is offered. Although the Design Summary is not required by regulation, INDOT has developed this “public information document” to provide a complete description of the proposed project and transcript of the public hearing or certification of hearing requirements. This document will also allow closure of unresolved issues at the time of FHWA approval of the FEIS/Record of Decision (ROD) or EA/FONSI or FHWA determination that the project is categorically excluded (CE) from the requirement to prepare a NEPA document.

The Design Summary includes findings on permit, mitigation, design and right-of-way issues. The Design Summary also serves to respond to issues raised by written and oral comments on projects which are categorically excluded by FHWA from the requirement to prepare a NEPA document.

Copies of the Design Summary will be made available to interested parties upon request as provided for in the current INDOT policy concerning public disclosure. FHWA will be supplied a copy of the Design Summary for all projects located on the National Highway System.